

REMARKS

These remarks are identical to the remarks previously submitted in an Amendment entered with a Request for Continued Exam filed on December 17, 2007.

This response relates to issues raised in the examiner's office action mailed September 18, 2007. In that office action, claims 16-37 were rejected by the examiner under 35 U.S.C. § 102 and/or 35 U.S.C. § 103. Primary references used by the examiner in rejecting the claims were Ocel (US 4,044,770) and Burton (US 4,665,912).

Claims 16-37 have been cancelled from the application, and new claims 38-53 have been substituted therefore. No new matter has been added. It is to be noted that claims 16-37 have not been canceled for purposes relating to patentability. Rather, claims 38-53 are being substituted for claims 16-37 for purposes of clarification, and in order to present to the examiner a clean set of claims which reflect all of the presently presented claim features.

During a telephonic interview between the undersigned attorney and the examiner on November 11, 2007, the various rejections of the claims were discussed with respect to the present invention and the cited prior art references. A summary of the telephonic interview is presented below. At the conclusion of the telephonic interview, it was agreed that Ocel (US 4,044,770) does not appear to teach or suggest a dye or stain component, applicable to the marking component, and usable to make the mark on the lens capsule.

On pages 2 of the Office Action, the examiner rejects claims 16-30 and 37 under 35 U.S.C. § 102 and/or 35 U.S.C. § 103 as being anticipated by or obvious in view of Ocel (US 4,044,770). This rejection is respectfully traversed.

On page 3 of the Office Action, the examiner rejects claims 16, 31 and 33-36 under 35 U.S.C. § 102 and/or 35 U.S.C. § 103 as being anticipated by or obvious in view of Burton (US 4,665,912). This rejection is respectfully traversed.

As noted in paragraph [0005] of the present application, conventional techniques of performing an anterior capsulorhexis surgery procedures have involved manual estimation by the surgeon wherein the surgeon manually estimates the location, shape, and size of the intended capsulorhexis without the aid of any guide or reference mark on the lens capsule.

In contrast, as noted, for example, in paragraph [0018] of the specification of the present application (as published in Pub No. US 2004/0106929 A1), one novel and inventive aspect of at least one embodiment of the present relates to the creation and/or use of a ringed mark of dye or stain on the lens capsule of the eye to function as a reference template for facilitating the surgeon

in performing a capsulorhexis procedure. In one embodiment, the size and shape of the mark corresponds to size and shape of the intended capsulorhexis. By creating the mark on the capsule at the desired position of the lens capsule, the surgeon has a relatively fixed positional template or point of reference for performing the capsulorhexis, which can significantly aid the surgeon in performing a capsulorhexis procedure, particularly in situations where the eye moves during the surgery.

In at least one embodiment described in the present application, a marking element may be composed of a deformable and malleable material such as stainless steel or titanium, and may be formed to have a substantially ringed shape. (see e.g., [0016]). In one embodiment, the material used to form the ringed marking element is able to retain its shape and size even after being deformed; that is, the material has what is referred to as shape memory. (see e.g., [0017]).

In one embodiment, the marking component may be inserted into anterior chamber 304 of the eye through a small corneal incision, such as a standard cataract incision. (see e.g., [0023]) In at least one embodiment, a hollowed insertion tube may be used to deliver the marking component into the anterior chamber 304 of the eye through the small corneal incision. In one implementation, the marking element may be retracted into and/or extended from the hollowed insertion tube. (see e.g., [0022])

In one implementation, a marking material (e.g., dye or stain) is applied to the marking element. Once the tube is in the anterior chamber and the marking element is extended from the tube, the marking element may physically touch the lens capsule thereby transferring the marking material to the lens capsule which forms a mark (e.g., ring-shaped mark). In at least one embodiment, the mark may correspond to the size and shape of an intended capsulorhexis (as desired by the surgeon performing the surgery). (see e.g., [0017], [0023]). In at least one embodiment, the mark acts as a target or guide for the surgeon to follow in order to make a precise anterior capsulorhexis in accordance with a desired size/shape. (see e.g., [0023])

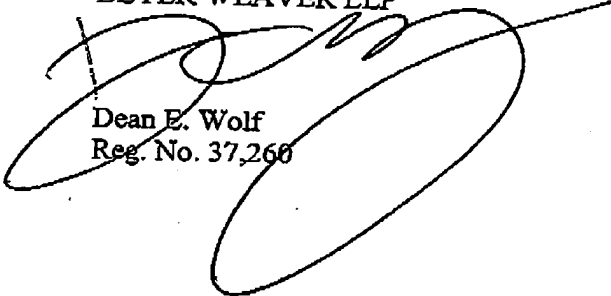
It is believed that neither Ocel nor Burton, nor any of the other cited prior art references of record (either singly, or in combination) teach or suggest the combination of features recited in independent claim 38 of the present application. Accordingly it is believed that claim 38 is that are anticipated by nor obvious in view of the cited prior art references of record, and is therefore believe to be allowable. Additionally, each of the presently pending dependent claims is also believed to be allowable since it depends upon independent claim 38.

The additional limitations recited in the dependent claims are not further discussed as the above-discussed limitations of claim 38 are clearly sufficient to distinguish the claimed invention from the prior art of record.

Because claims 38-53 are believed to be allowable in their present form, many of the examiner's rejections in the Office Action have not been addressed in this response. However, applicant respectfully reserves the right to respond to one or more of the examiner's rejections in subsequent amendments should conditions arise warranting such responses.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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